

REMARKS

Claims 1-24 are pending in the present application. Claims 1 and 12 have been amended. Claims 3-11, 15, and 17-24 are currently considered withdrawn.

Restriction requirement:

As stated below, Applicant believes that the independent claims 1 and 12 as amended are now generic and allowable. Thus, Applicant respectfully requests to reinstate Claims 3-11, 15, and 17-24. To this end, Applicant added new claims 25-42 which are identical to withdrawn claims 3-11, 15, and 17-24, respectively.

Claim rejection under 35 U.S.C. §102

The Examiner rejected claims 1-2, 12-14, and 16 as being anticipated by Skinner, Scherer, Eckert, Bernhardt, Nakamura, Rockwell, or Yamada. Applicant respectfully disagrees. However, to further prosecution, Applicant amended the independent claims 1 and 12 to more clearly define the present invention.

As stated in previous responses, an apparatus according to the present application determines the dynamics of a vehicle with respect to determining whether a risk of swerving or skidding exists. If such a risk exists, the apparatus changes the characteristics of a brake booster in such a way, that booster ratio is increased to provide for an enhanced brake function in case the operator decides to apply the brake.

Applicant amended the independent claims to more clearly define how the risk of swerving and skidding is determined. According to the amended claims, at least the yaw rate or transverse acceleration is determined. The apparatus then determines from these values whether such a risk of swerving or skidding exists. This limitation is disclosed in the original specification on page 8, paragraph [0025]. Thus, no new matter has been introduced.

The prior art cited by the Examiner in particular, references Skinner, Scherer, Nakamura, Bernhardt, Rockwell, and Yamada do not determine the risk of swerving or skidding

at all. These, documents merely describe adjustable brake boosters and some signal to adjust these brake boosters. However, none of these publications discloses a method or apparatus that determines the dynamics of a vehicle with respect to the risk of swerving or skidding.

The Eckert reference discloses a system which determines whether a driver is in a dangerous situation. To this end, the Eckert apparatus determines particular activity of the driver such as the speed with which a foot is removed from the accelerator, the switching time between different pedals, the distance of the brake pedal, etc. See page 7, last paragraph of the PCT publication. Thus, throughout this disclosure it is neither mentioned nor suggested to actually analyze dynamic values of the vehicle such as the yaw rate or transverse acceleration to determine whether the vehicle at risk of swerving or skidding.

Moreover, the present invention claims a priority date before the publication date of October 28, 1999. Applicant is aware that a translation of the priority documents would be necessary to overcome this document. However, Applicant believes that at this time the filing of such a translation is not required because Eckert does not anticipate the present invention.

For this reason, Applicant believes that claims 1 and 12 are allowable. The dependent claims include all the limitations of the independent claims and are therefore also allowable. Moreover, because claims 1 and 12 are generic Applicant respectfully requests to reinstate the withdrawn claims because these claims add further useful limitations to the subject matter of the independent claims 1 and 12. All withdrawn claims are dependent on independent claim 1 or 12, respectively.

CONCLUSION

The application as defined in the pending claims is patentable under 35 U.S.C. §112 and §103 in view of the cited prior art. Therefore, applicants respectfully request withdrawal of the rejection and allowance of all pending claims.

Applicants do not believe that any other fees are due at this time; however, should any fees under 37 C.F.R. §§ 1.16 to 1.21 be required for any reason relating to this document, the Commissioner is authorized to deduct the fees from Deposit Account No. 02-0383, (*formerly Baker & Botts, L.L.P.*) Order Number 070255.0611.

BAKER BOTTS L.L.P.

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(Limited recognition 37 C.F.R. §10.9)

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